

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: §
RAYMOND NANEZ § CASE NO. 09-30702-H4-13
NOEMI GARCIA NANEZ § Chapter 13
Debtors §

**MOTION TO COMPEL US BANK HOME MORTGAGE
TO COMPLY WITH LOCAL RULE 3015-1(b), THE CHAPTER 13 TRUSTEE
PROCEDURES FOR ADMINISTRATION OF HOME MORTGAGE
PAYMENTS, AND TO DETERMINE MORTGAGE PAYMENT**

This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.

Represented parties should act through their attorney.

TO THE HONORABLE JEFF BOHM,
U.S. BANKRUPTCY JUDGE:

David G. Peake, Chapter 13 Trustee, moves the Court to compel US Bank Home Mortgage, to comply with Local Rule 3015-1(b) and the Chapter 13 Trustee Procedures for Administration of Home Mortgage Payments and for a determination of the Debtor's on-going monthly mortgage payment, and will show the Court the following:

1. The Trustee received correspondence, from US Bank Home Mortgage, indicating a change in the Debtor's on-going monthly mortgage payment. The Trustee replied in writing to US Bank Home Mortgage, requesting that US Bank Home Mortgage, comply with the Chapter 13 Trustee Procedures for Administration of Home Mortgage Payments and file a Notice of Mortgage Payment Adjustment in the approved form. The Trustee also sent copies of the Chapter 13 Trustee Procedures for Administration of Home Mortgage Payments and the Notice of Mortgage Payment Adjustment form to US Bank Home Mortgage.

2. US Bank Home Mortgage, has not responded to the Trustee's request to comply with the Local Rules and Chapter 13 Trustee Procedures for Administration of Home Mortgage Payments, and has not filed a Notice of Mortgage Payment Adjustment with the Court.

3. The Trustee has not and will not adjusted the Debtor's on-going monthly mortgage payment until a proper Notice of Mortgage Payment Adjustment form is filed with the Court.

4. The refusal of US Bank Home Mortgage, to comply with the Local Rules and Chapter 13 Trustee Procedures for Administration of Home Mortgage Payments jeopardizes the Debtor's ability to complete the plan and bring the mortgage current during the term of the plan.

5. The Trustee further requests the Court to determine the Debtor's on-going monthly mortgage payment so the Trustee can disburse the correct amount. Delay in determining the Debtor's correct on-going monthly mortgage payment could affect the overall feasibility of Debtor's plan.

Wherefore, the Trustee requests the Court to require US Bank Home Mortgage, to comply with Local Rule 3015-1(b) and the Chapter 13 Trustee Procedures for Administration of Home Mortgage Payments, to determine Debtor's on-going monthly mortgage payment, and grant him such other and further relief to which he may be entitled.

Respectfully submitted,

David G. Peake, Chapter 13 Trustee

By: /s/ Richard W. Aurich, Jr. / TX Bar No. 00792339
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Attorney for David G. Peake, Chapter 13 Trustee

CERTIFICATE OF SERVICE

A copy of the foregoing Motion to Compel US Bank Home Mortgage to Comply with Local Rules was served on April 27, 2010 as indicated upon the following:

Raymond Nanez Noemi Garcia Nanez 622 Jefferson St. Rosenberg, TX 77471	U.S. Mail
Kenneth A. Keeling 3310 Katy Fwy, Ste 200 Houston, TX 77007	CM/ECF electronic delivery
US Bank Home Mortgage 4801 Frederica St Owensboro, KY 42301	U.S. Mail
US Bank Home Mortgage PO Box 5229 Cincinnati, OH 45201	U.S. Mail
US Bank Home Mortgage c/o National Default Servicing Corp. 2525 Camelback, Ste 200 Phoenix, AZ 85012	U.S. Mail
US Bank Home Mortgage PO Box 468002 Bedford, OH 44146	U.S. Mail
Mary A. Daffin Barrett Daffin Frappier Turner & Engle, LLP. 1900 St. James Place, Ste 500 Houston, TX 77056	CM/ECF electronic delivery

/s/ Richard W. Aurich, Jr.